

## 8 Summary

### 8.1 Contractual and Non-contractual Obligations in Private International Law

This thesis deals with the European international private law and discusses the current law-crash modification of contractual and non-contractual obligations. Characteristic of the European community is the absence of unification of the substantive law, which is compensated, by the unification of conflict standards. The unification of conflict standards, as an instrument of the international private law, can be understood as a certain sign of unification of direct standards. Conflict standards do not govern directly the rights and obligations of the parties to a contract in international private law but they answer the question by which legal order the given relationship should be abided and therefore they provide certain degree of foresee ability and safety.

The first (general) part called "European international private law – from conventions to regulations" is dedicated to development of the unification of conflict standards within the European community. At present, the unification of the conflict issue is represented by two new-adopted Roman regulations concurring to the Roman convention on the law applicable to contractual obligations. Analysis of the first Roman regulation on the law applicable to contractual obligations (Regulation Rome I) and its individual stipulations is a subject to the second (special) part. Third (special) part is inscribed to the analysis of the second Roman regulation on the law applicable to non-contractual obligations (Regulation Rome II).

As well as the Roman convention, both Roman regulations are based on four pillars, which characterize them on the basic level. The first pillar represents the autonomy of the will of all parties to the contract; the second one is represented by general rules of the substitute determination of the decisive law. The third and the fourth pillar are common to all communal acts – it is the protection of public order of all member states (eventually the European public order) and unified interpretation of the ESD.

The Roman regulations, however, are not limited to relations of obligation with communal elements but they confirm the universality principle in accordance with which the implicated conflict standards have the *erga omnes* effect. The decisive law is then used regardless to whether it is a right of one of the member states or not. The all-purpose

usages in connection with their obligatory application will thereunto show up in exclusion of the application of national conflict standards of the member states.

By the adoption of the Roman regulations, to all parties to a private contract with an international element a sufficient foresee ability and peace in comparison with the conditions before is ensured. At present, the unification of conflict standards means a compromise to the pro tempore unreached unification of the substantive law modification and the stage of shattering and disunity of national amendments.

## **8.2 Klíčová slova/key words**

smluvní a mimosmluvní závazkové vztahy  
evropské mezinárodní právo soukromé  
kolize právních norem

contractual and non-contractual obligations  
european international private law  
conflict of laws